

STATE OF DELAWARE

REGULATIONS GOVERNING THE SANITATION OF

MIGRATORY AGRICULTURAL LABOR HOUSING CAMPS

and

FIELD SANITATION (Hand Labor)

## PREAMBLE

These Regulations as amended are approved by the State Board of Health on February 28, 1986, pursuant to the authority invested by Del. C. §122(3)a, b, c, e, g and j. These Regulations, as amended, provide a system of inspection of such facilities and establish procedures for their enforcement.

These Regulations, as amended, supersede regulations previously adopted by the State Board of Health and have an effective date of March 15, 1986.

## INTRODUCTION

There exist, and may exist in the future, facilities for the housing of migrant agricultural workers, which by reason of the structure, equipment, sanitation, maintenance, use or occupancy, affect or are likely to affect, adversely, the public health (including the physical, mental, and social well-being of persons and families), safety and general welfare.

The absence or inadequacy of basic sanitation and hygiene has long been recognized by medical science as a principle factor in the transmission of bacterial, viral and parasitic diseases. Inadequate water supply and human waste removal have produced critical health problems for hundreds of years. The provisions for potable drinking water, the proper disposal of human wastes, and the use of personal and public hygienic practices are known to prevent the transmission of these communicable diseases.

## PURPOSE

It is hereby declared that the purpose of this part is to protect, preserve and promote the physical and mental health and social well-being of the people; to minimize the incidence of communicable disease; to regulate publicly and privately owned migratory agricultural labor camps or migratory agricultural labor housing and field sanitation for the purpose of maintaining adequate sanitation and public health; and to protect the safety of migrant agricultural workers and the people; and to promote the general welfare of agricultural workers and their families by this Regulation.

To prevent the existence of adverse conditions, and to achieve and maintain such levels of environmental quality that will protect and promote public health, safety and the general welfare, establishment and enforcement of such standards are required.

These Regulations do not apply to any person who, in the ordinary course of that person's business, regularly provides housing on a commercial basis to the general public and who provides housing to any migrant agricultural worker of the same character and on the same or comparable terms and conditions as provided to the general public. Migratory agricultural labor housing shall not be brought within this exception simply by offering lodging to the general public. If the majority of the people living in the housing are migrant agricultural workers, then the housing shall be considered as migratory agricultural labor housing or camps.

## APPLICATION AND SCOPE

The requirements of this part shall apply to the construction, alteration, addition, establishment, maintenance and/or operation of all migratory agricultural labor housing or camps and field sanitation (hand labor) operations.

## SEVERABILITY

If any provision or application of any provision of these Regulations is held invalid, that invalidity shall not affect other provisions or applications of these Regulations.

## SECTION 47-1 GENERAL PROVISIONS

### 47-1.100 Definitions

For the purposes of these Regulations:

- 47-1.101 Agricultural employer shall mean any person, corporation, agricultural establishment or other legal entity that owns or operates an agricultural establishment, or on whose premises or in whose interest an agricultural establishment is operated, and any person, corporation, association or other legal entity who is responsible for the management and condition of an agricultural establishment, or who acts directly or indirectly in the interest of an employer in relation to any employee.
- 47-1.102 Agricultural establishment shall mean a business operation that uses paid employees in the production or handling of food, fiber, or other materials such as seed, seedlings, plants, or parts of plants.
- 47-1.103 Field sanitation (hand labor) shall apply to any agricultural establishment where eleven (11) or more employees are engaged on any given day in hand-labor operations in the field for more than 3 consecutive hours.
- 47-1.104 Hand-labor operations shall mean agricultural activities or operations performed by hand or with hand tools. Hand labor does not include such activities as logging operations, care or feeding of livestock, or hand-labor operations in permanent structures, e.g., canning facilities or packing houses.
- 47-1.105 Handler shall mean any person (except a common or contract carrier of produce owned by another person) who handles produce, including a producer who handles produce of his own production.
- 47-1.106 Handwashing facility shall mean a facility providing a basin, container or outlet with an adequate supply of potable water, soap and single-use towels. Moist towelettes cannot be substituted for soap and water.

47-1.107 Imminent Health Hazard shall mean something that is an imminent hazard to the health of the migrant agricultural worker or the family. Such an imminent health hazard shall include, but is not limited to, any one of the following:

- (a) an ongoing outbreak of an infectious, pathogenic or toxic agent capable of being transmitted; or
- (b) the absence of potable water (supplied under pressure) in a quantity capable of meeting the needs of the facility; or
- (c) the absence of adequate toilet facilities; or
- (d) a backup of sewage into the facility or into equipment containing food or utensils; or
- (e) an infestation of vermin to the extent that food and food contact surfaces cannot be protected from contamination.
- (f) the lack of equipment capable of maintaining the product temperature of all potentially hazardous foods within the camp.

47-1.108 Migratory Agricultural Labor Housing and Camps shall mean one or more buildings, structures, trailers, or mobile homes, together with the tract of land pertaining thereto, established, operated or maintained, or used as living quarters for five (5) or more migrant agricultural workers. No tents shall be accepted as living quarters. For the purposes of this Regulation, such housing shall be referred to as "camps."

47-1.109 Migratory agricultural labor housing or camp operator shall mean the person who has been granted a permit to operate a migratory agricultural labor camp or other person or persons who arrange housing or provides housing for migratory agricultural workers. For the purpose of this Regulation, these shall be referred to as "camp operators."

47-1.110 Migrant agricultural worker shall mean an individual who is employed in agricultural employment of a seasonal or other temporary nature, and who is required to be absent overnight from his permanent place of residence.

47-1.111 Person shall mean corporations, companies, associations, firms, partnerships, societies, as well as individuals.

47-1.112 Pit Privy shall mean a device for the disposal of human excreta in a pit in the earth. The pit is covered by a structure affording privacy and shelter and containing a covered seat with an opening into the pit, be vented and fly tight.

47-1.113 Potable water shall mean water that meets the standards for drinking purposes by the Delaware Division of Public Health.

47-1.114 Regulatory Authority shall mean the State Board of Health or anyone authorized by the Board as its designated representative, in conformance with 16 Del. C. §104.

47-1.115 Shelter shall mean any building, structure, trailer or mobile home of one or more rooms used for sleeping or living quarters.

47-1.116 Toilet facility shall mean a facility designed for the purposes of both defecation and urination, including biological or chemical toilets, combustion toilets, or sanitary pit privies, which are supplied with toilet paper adequate to employee needs. Toilet facilities may be either fixed or portable.

#### 47-1.200 Preoperational Requirements

##### 47-1.201 General

No person shall establish, promote, conduct, advertise or maintain a camp or conduct field sanitation operations without a permit issued by the Division of Public Health. No camp shall be established until legible and detailed plans (in duplicate) have been submitted to the Bureau of Environmental Health, Division of Public Health, Dover, and have been approved in writing. If the majority of the people living in the housing are migrant agricultural workers, then the housing shall be considered as migratory agricultural labor housing or camp. A camp as defined in this Regulation shall advertise and operate only as the type of camp for which a permit has been issued.

##### 47-1.202 Classification of Camp and Field (Hand labor) Operational Permits

- (a) Annual Permit. May be issued from date of satisfactory compliance to the end of the calendar year, when and if the Division of Public Health determines that the migratory agricultural labor housing camp or field sanitation (hand labor) operation is in compliance with this Regulation.
- (b) Provisional Permits issued to operate a camp or field sanitation operation with defined conditions may be issued when and if the Division of Public Health determines that no health hazards are present, and the owner or operator demonstrates proof of intention to correct, within a specified period of time, those items which do not meet permit requirements. A written statement delineating changes or corrections to be made and completion dates must be presented before a provisional permit shall be issued. A provisional permit shall be issued for a 30-day period, with possible extension to a maximum of 60 days and shall be non-renewable after 60 days. Provisional permits shall be replaced with an annual permit when it

has been determined by inspection that the camp or field sanitation (hand labor) operations is in compliance with these Regulations.

There are a total of four permits which may be issued:

1. Annual Camp Permit
2. Provisional Camp Permit
3. Annual Field Sanitation (hand labor) Permit
4. Provisional Field Sanitation (hand labor) Permit

47-1.203 Issuance of Permits

- (a) Any person desiring to operate a camp or field operations shall make written application for a permit on forms provided by the Division of Public Health. Such application shall include the name and address of the owner, the location and type of the proposed camp or field sanitation (hand labor) operations and the signature of each applicant. The application shall be made at least thirty (30) days prior to the proposed date of arrival of the migrant agricultural workers.
- (b) Prior to approval of an application for a permit, the Regulatory Authority shall inspect the proposed camp or field sanitation (hand labor) operations to determine compliance with the requirements of these Regulations.
- (c) The Regulatory Authority shall issue a permit to the applicant if its inspection reveals that the proposed camp or field sanitation (hand labor) operations complies with the requirements of these Regulations.
- (d) Such permit shall be renewed annually and shall not be transferable.

47-1.204 Submission of Plans

Sanitary Facilities for Camps and Modifications of Existing Camps

Duplicate copies of plans and specifications for the construction, re-construction, or extensive alteration of any plumbing system, water supply, sewage system, shall be submitted to the office of Institutional and General Sanitation, Division of Public Health for review at least 60 days prior to the initiation of construction and shall contain at least the following information:

- (a) name and address of owner or operator;
- (b) location, use, and floor plans of all proposed or existing buildings;
- (c) location of all proposed or existing water supplies and sewage system;
- (d) source and method for protecting the water supply;
- (e) location of ventilation in camp and toilet area;

- (f) location and number of toilet, handwashing, shower and laundry facilities;
- (g) plumbing is to be installed in accordance with the State Plumbing Code; and
- (h) location of lighting in camp and toilet area.

#### 47-1.205 Post-construction Inspection

Whenever plans and specifications are required by Section 47-1.204 of these Regulations, the Regulatory Authority shall inspect the camp prior to the start of operation, to determine compliance with the approved plans and specifications and with the requirements of these Regulations. The post-construction inspection report shall indicate compliance with the plans and specifications as approved by the Regulatory Authority. All construction, conversions or repairs must be completed at least five (5) days prior to the arrival of the workers and their dependents.

#### 47-1.206 Pre-operation Inspection

The Regulatory Authority shall inspect a camp prior to the start of operations to determine compliance with the requirements of these Regulations, as follows:

- (a) Following completion of a satisfactory post-construction inspection, a newly constructed, converted, or physically altered facility, or reopening of a facility that has been closed for thirty (30) days, shall be in a minimum of 90% compliance with these Regulations in order to be approved for an annual operating permit.
- (b) Change of ownership, management firm, or lessee of an existing operating facility:
  - (1) A new operating permit is required.
  - (2) The facility shall be in a minimum of 90% compliance with these Regulations in order to be approved for an annual operating permit.
  - (3) The new owner, management firm, or lessee may be granted a provisional permit to operate in accordance with Section 47-1.202(b), pending completion of the requirements for an annual operating permit.
  - (4) The new owner, management firm, or lessee may request a variance from certain requirements in accordance with Section 47-4.408 of these Regulations.

## SECTION 47-2 GENERAL SANITATION - CAMPS

### 47-2.101 Site

All sites used for labor camps shall be located upon well-drained ground. They shall not be subject to periodic flooding, located in swamps or marshes or subject to drainage from barnyards, outdoor toilets or other sources of filth, and not within 200 feet of a swamp or poorly drained area. Kitchen and quarters shall be located at least 200 feet from any poultry house, stable or penned livestock except that with new construction, the distance shall be 500 feet. The premises shall be properly graded so as to prevent the accumulation of surface water. The area of the site shall be adequate to provide the following minimum space between buildings in all new construction:

- (a) Single story buildings - 15 feet
- (b) Single Story, row-type buildings - 25 feet
- (c) Two-story buildings - 25 feet

The area shall be maintained in a clean and sanitary condition at all times.

An adequate number of yard lights shall be provided in the main area and include the laundry, shower and toilet areas.

### \*47-2.200 Shelter Requirements

Every shelter used for housing of migrant workers shall be constructed in a substantial manner and shall provide shelter to the occupants against the elements. The roof and exterior walls shall not leak.

### \*47-2.201 Heating

- (a) All living quarters and service rooms shall be provided with properly installed, operable heating equipment capable of maintaining a temperature of at least 68°F. if, during the period of normal occupancy, the temperature in such quarters falls below 68°F.
- (b) Any stoves or other sources of heat utilizing combustible fuel shall be installed and vented in such a manner as to prevent fire hazards and a dangerous concentration of gases. No portable heaters other than those operated by electricity shall be provided. If a solid or liquid fuel stove is used in a room with wooden or other combustible flooring there shall be a concrete slab, insulated metal sheet, or other fireproof material on the floor under each stove, extending at least 18 inches beyond the perimeter of the base of the stove.



- (c) Any wall, or ceiling within 18 inches of a solid or liquid fuel stove or a stovepipe shall be of fireproof material. A vented metal collar shall be installed around a stovepipe, or vent passing through a wall, ceiling, floor or roof.
- (d) When a heating system has automatic controls, the controls shall be of the type which cuts off the fuel supply upon the failure or interruption of the flame or ignition, or whenever a pre-determined safe temperature or pressure is exceeded.

47-2.2020 Living Quarters

47-2.2021 Space

- (a) All shelters shall provide beds, cots or bunks that are raised at least 12 inches from the floor. There shall be at least 24 inches, both laterally and end to end, between each bed, cot or bunk. Beds shall be single except for families. The camp operator shall furnish a mattress which is clean, cleanable and in good repair.
- (b) Adequate and separate arrangements for hanging clothing and storing personal effects for each person or family shall be provided. Twenty-four (24) inches of shelf with a bar or substantial cord stretched beneath will be adequate space per person. Individual lockers may be used.
- (c) Space requirements in shelter shall be as follows:
  - \*(1) For sleeping purposes only, in family units, not less than 50 square feet per occupant.
  - \*(2) In barracks or dormitories, for sleeping only (using double bunks), not less than 40 square feet per occupant except with new construction, the square footage will be 50.
  - \*(3) In family units used for sleeping and cooking, not less than 60 square feet per occupant except with new construction, the square footage will be 100.
  - (4) All rooms in quarters shall have a minimum of 7 feet ceiling height. This requirement shall not apply to mobile homes.
  - (5) Housing used for families with one or more children over six years of age shall have a room or partitioned sleeping area for the husband and wife. The partition shall be of rigid materials and be installed so as to provide privacy.

47-2.2022     Ventilation

All living quarters shall be so constructed as to provide adequate ventilation. The total area of the windows shall be not less than one-tenth of the floor area. At least one-half of each window shall be constructed so that it can be opened for purposes of ventilation.

\*47-2.2023     Exterior Openings

Exterior openings used for ventilation shall be effectively screened with at least 16 mesh per square inch material. All screen doors shall open outwards, where possible, and be self-closing.

47-2.2024     Floors

Floors shall be constructed of smooth wood, concrete or other acceptable material which can be readily cleaned. The floors shall be kept in good repair, be of tight construction and be at least 12 inches above ground level, except where the floor is a concrete slab placed directly on the ground.

47-2.2025     Rooms

Rooms in every shelter shall be maintained in a reasonably clean and safe sanitary condition.

47-2.2026     Separate Quarters

Separate quarters shall be provided for each family. When both males and females not members of the same family are housed in one building, a separate room with private entrances shall be provided for each sex.

47-2.203     Cooking and Eating Facilities

47-2.2031     Individual/Common Units

When workers or their families are permitted or required to cook and/or eat in their individual unit or in a common facility, a room or space shall be provided and equipped for cooking and eating. Such space shall be provided with:

- \*(a) Stoves or hot plates, with a minimum equivalent of two burners, in a ratio of 1 stove or hot plate to 10 persons, or 1 stove or hot plate to 2 families in a screened enclosure.
- (b) Adequate food storage shelves and counter space for food preparation.
- \*(c) Mechanical refrigeration for food at a temperature of not more than 45°F.

- (d) Tables and chairs or equivalent seating adequate for the intended use of the facility. These are to be provided at a rate to seat one-half of the camp's population. Boxes or concrete blocks are not considered as suitable seating.
- \*(e) Adequate facilities for washing, rinsing and sanitizing dishes and utensils. This will include at a minimum, a two-compartment sink with proper disposal of the liquid waste.
- (f) Adequate lighting and ventilation.
- (g) Floors shall be of non-absorbent, easily cleaned materials.

47-2.2032 Central Mess Facility

\*When central mess facilities are provided, the kitchen and mess hall shall be in proper proportion to the capacity of the housing and shall be separate from the sleeping quarters. The physical facilities, equipment and operation shall be in accordance with provisions of applicable State codes.

\*The wall surface adjacent to all food preparation and cooking areas shall be of non-absorbent, easily cleaned and fire-resistant material.

\*47-2.2040 Water Supply

An adequate and convenient supply of water that meets the standards of the State Board of Health shall be provided. Any construction that is approved after April 12, 1976 will require hot and cold water under pressure in all plumbing facilities that are installed.

47-2.2041 Cold Water Tap

A cold water tap shall be available within 100 feet of each individual living unit when water is not provided in the unit. Approved drainage facilities shall be provided for overflow and spillage. Common drinking cups shall not be permitted.

47-2.2042 Water Demand

Water supply shall be deemed adequate if it is capable of delivering 35 gallons per person per day to the camp at a peak of 2½ times the average hourly demand.

47-2.2050 Toilet, Showers and Laundry Facilities

47-2.2051 Toilets

- (a) Except in individual family units, separate toilets and showers shall be provided for each sex and shall be distinctly marked for "Men"

and "Women" by signs printed in English and in the native language of persons occupying the camp.

- (b) All toilets shall be readily accessible to living quarters and shall, in no case, be more than 200 feet distance from any shelter. In case of pit privies they shall be no closer than 100 feet from any living quarters, kitchen, mess hall, or seepage area. Drained walkway shall be provided. Chemical toilets can be no closer than 50 feet.
- \*(c) Common use toilets and pit privies shall be well lighted, ventilated, and shall be kept clean and sanitary.
- (d) If pit privies are provided, they shall be constructed in conformance with the regulations of the State Board of Health.

#### 47-2.2052 Showers and Laundry Facilities

All rooms and utility buildings shall be well lighted and ventilated. Floors and ceilings shall be of smooth finish materials and impervious to moisture. Floors shall slope to drain. Floor drains shall be provided in all shower, toilet, and laundry rooms to remove waste water and facilitate cleaning. Laundry areas may be on concrete slabs. All junctions of the curbing and the floor shall be rounded if possible. The walls and partitions of shower rooms shall be smooth and impervious to the height of splash (6 ft.). Partitions between men and women's showers or toilets shall be constructed of rigid material to afford privacy. Partitions are required between women's showers.

#### 47-2.2053 Ratios

Toilets, lavatories, shower and laundry facilities shall be provided in the following ratios:

- (a) One (1) toilet for each 15 persons of each sex. A minimum of two (2) units for shared facilities or a single unit for family facilities. Each toilet room will have 6 sq. ft. of window to the outside; this does not include pit privies.
- (b) One (1) urinal unit or 2 linear feet of urinal trough may be substituted for one toilet up to 1/3 of required toilet seats. The floor from the wall and a distance not less than 15 inches measured from the edge of the urinal shall be constructed of material impervious to moisture.
- (c) One (1) lavatory (handwashing) for each 15 persons of each sex, except that with new construction, there shall be one (1) lavatory (handwashing) for each six (6) persons.

- (d) One (1) shower for each 15 persons of each sex, except that with new construction, there shall be one (1) shower for each ten (10) persons of each sex.
- (e) One (a) laundry tray or tub for each thirty (30) persons. One mechanical washer for each 50 persons may be provided in lieu of laundry trays, although a minimum of one laundry tray or tub per 100 persons shall be provided in addition to the mechanical washer.

#### 47-2.2054 Miscellaneous

- (a) Hot and cold water under pressure shall be provided for lavatories, showers and laundry facilities.
- (b) Facilities shall be provided for drying clothes.
- (c) All plumbing shall be approved by the State Board of Health.
- (d) All laundry, toilet or service rooms shall be cleaned daily.
- (e) All liquid waste shall be discharged into a sanitary sewer or into a sewage disposal system approved by the Department of Natural Resources and Environmental Control.

#### 47-2.206 Lighting

Each habitable room in a camp shall be provided with at least one ceiling type light fixture and at least one separate floor or wall type convenience outlet. Laundry, toilet rooms and rooms where people congregate shall contain at least one ceiling or wall type fixture. Light levels in toilet and storage rooms shall be at least 20 foot candles, 30 inches from the floor. Other rooms including kitchens and living quarters, shall have light levels of at least 30 foot candles, 30 inches from the floor. All electrical installations must meet the requirements of the State Board of Electrical Examiners.

#### \*47-2.207 Solid Waste

Durable, flytight, covered, impervious, rodent proof, cleanable containers approved by the State Board of Health shall be provided for the collection of garbage and refuse. At least one such container shall be located within 100 feet of each shelter, on a suitable base such as wood, metal, concrete or gravel. A container is to be provided at a ratio of one (1) per family or one (1) per fifteen (15) workers. Garbage receptacles must be emptied when full and cleaned at least two times a week or more often if necessary.

Garbage, combustible refuse, and rubbish shall be disposed of in accordance with the regulations of the Department of Natural Resources and Environmental Control.

\*47-2.208 Communicable Diseases to be Reported

Appendix A is a list of reportable diseases; the occurrence or suspected occurrence of these diseases shall be reported to the County Health Officer within 48 hours of recognition. Reports shall be made by telephone or in writing except for certain specified diseases as indicated by a (T) which shall be reported immediately by telephone. This shall be the duty of the permit holder when made aware of such reportable disease. The provisions of the Communicable Disease Regulations of the State Board of Health shall be followed.

\*47-2.209 Control of Rodents, Insects and Other Vermin

Methods approved by the State Board of Health must be used for the elimination and control of rodents, insects or other vermin.

\*47-2.210 Fire, Safety and First Aid

Fire extinguishers are to be provided in each camp and to be located no further than 100 ft. from the housing area when the extinguisher is not in use. Agricultural pesticides and toxic chemicals shall not be stored in the migratory agricultural labor housing or camp area.

A first aid kit shall be supplied by the migratory agricultural labor housing/camp operator, and shall be located in an easily accessible place and available for immediate use. The kit shall be equivalent to the 16 unit recommended by the American Red Cross.

SECTION 47-3 FIELD SANITATION (HAND LABOR) STANDARDS

Agricultural employers shall provide the following for employees engaged in hand-labor operations in the field, without cost to the employee:

\*47-3.101 Potable Drinking Water

- (a) Potable water shall be provided and shall be placed in locations readily accessible to all employees. The water shall be suitably cool and in sufficient amounts (6 quarts per person per day), taking into account the air temperature, humidity and the nature of the work performed to meet employees' needs.
- (b) The water shall be dispensed in single-use drinking cups or by fountains. The use of common drinking cups or dippers is prohibited.

\*47-3.102 Toilet and Handwashing Facilities

- (a) One toilet facility and one handwashing facility shall be provided for each twenty (20) employees or fraction thereof, except when the period of field work (including transportation time to and from the field) is three (3) hours or less. Toilet and handwashing facilities shall be accessible, in close

proximity to each other, and within one quarter (1/4) mile of each employees' place of work in the field. Where is it not feasible to locate facilities accessibly and within the required distance due to the terrain, they shall be located at the point of closest vehicular access.

- (b) Toilet facilities shall have doors that can be closed and latched from the inside and shall be constructed to insure privacy and be screened to exclude flies.
- (c) The handwashing facility shall include soap (liquid or bar), single-use towels and covered containers for the towel disposal, potable water (a minimum of 4 gallons of water per day per worker), and a method for safe disposal of the water.

**\*47-3.103      Maintenance**

Potable drinking water and toilet and handwashing facilities shall be maintained in accordance with public health sanitation practices, including the following:

- (a) Drinking water containers shall be covered, cleaned and refilled daily;
- (b) Toilet facilities shall be operational and maintained in a clean and sanitary condition;
- (c) Handwashing facilities shall be maintained in clean and sanitary conditions and
- (d) Disposal of wastes from facilities shall not cause insanitary conditions.

**47-3.104      Reasonable Use**

Employees shall be allowed reasonable opportunities during the workday to use the facilities.

**SECTION 47-4 COMPLIANCE PROCEDURES**

**47-4.100      General**

Enforcement. It shall be the duty of the State Health Officer, the Deputy State Health Officers, or any officially designated representative to enforce the provisions of this Regulation.

The State Board of Health, or its designated authority, for just reasons of non-compliance with the requirements of these Regulations, may refuse to issue a permit, may deny the reissuance of a permit, or may suspend a permit. In all cases, the applicant for a permit, or the holder of a permit shall be granted due process in the appeal of action by the Regulatory Authority.

#### 47-4.101 New and Existing Facilities

The owner/operator of every camp or field sanitation (hand labor) operations shall comply with the requirement of Section 47-1.200 of these Regulations. If a camp or agricultural employer does not have a permit, the Regulatory Authority must notify the Deputy State Health Officer. The Deputy State Health Officer will send a letter to the owner/operator of the camp or field hand labor operations if the owner/operator fails to apply for a permit. Action will be taken as described in Section 47-4.407 of these Regulations.

#### 47-4.102 Change of Ownership, Management Firm or Lessee

In the event a camp or field operation changes ownership, management firm, or lessee, it is the responsibility of the new owner to notify the Regulatory Authority of such a change; and to provide the Regulatory Authority with the name(s) and address(es) of the new owners, managers, operators as an update to the permit application. The notice of the change shall be forwarded to the Deputy State Health Officer in the county in which the camp or farm operation is located.

If any upgrading of the physical structure of the transferred facility is required based on previous inspection reports of the Regulatory Authority, the new ownership will be held responsible for the needed renovations. Compliance with these Regulations shall be completed prior to the start of business unless the new ownership is either granted a variance in accordance with Section 47-4.408 or is granted a provisional permit in accordance with Section 47-1.202(b) of these Regulations. Upon compliance with these Regulations, an annual permit shall be issued to the operator as described in Section 47-1.202(a).

#### 47-4.200 Inspections

##### 47-4.201 Inspection Frequency

- (a) An inspection of a camp or field sanitation (hand labor) operation shall be performed before a permit is issued and at least once each month by the staff of the Division of Public Health, State of Delaware. Additional inspections of camps or field sanitation (hand labor) operations shall be performed as often as necessary for the enforcement of these Regulations.

##### 47-4.202 Access

Representatives of the Regulatory Authority, after proper identification, shall be permitted to enter any camp or field sanitation (hand labor) operation at any reasonable time, for the purpose of making inspections to determine compliance with these Regulations. These inspections may include any room or area associated with the camp or field sanitation (hand labor) operation. The Deputy State Health Officer may, after providing an



opportunity for a hearing, suspend for a period not to exceed thirty (30) days, the permit to operate a camp or field sanitation (hand labor) operation for refusing access to representatives of the Regulatory Authority.

#### 47-4.203 Inspection Report Form

The form as modified by these Regulations in Appendix B shall be used to record inspections of the camp as specified in Section 47-4.204 below. The post-construction inspection report form, which appears as Appendix C in these Regulations, shall be used to record the post-construction inspections of a camp. The form which appears as Appendix D in these Regulations, shall be used to record field sanitation (hand labor) inspections. A co-signed copy of the completed inspection report form shall be furnished to the person in charge of the camp or field sanitation (hand labor) operation at the conclusion of the inspection. Inspectional remarks on the completed inspection form shall refer to the item(s) violated, give the time period for correcting the violation(s) and shall state the corrections to be made. The inspection report form shall summarize the requirements of the Regulations. It shall also state that "Failure to comply with any time limits for corrections in this notice may result in cessation of your camp or field sanitation (hand labor) operation." The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it, in accordance with the Freedom of Information Act.

#### 47-4.204 Report of Inspections

- (a) Regular Inspections. Regular inspections are performed on a routine basis in permitted facilities. These inspections shall address all items on the inspection report form. Items in violation shall be recorded by item number.
- (b) Follow-up Inspections. Follow-up inspections shall be performed when a regular inspection indicates that critical items are in violation.

Follow-up inspections may also be performed after complaint and investigation inspections, or after conferences and hearings.

- (c) Complaint Inspections. Complaint inspections are performed in response to formal or informal complaints against permitted facilities. A complete inspection may be performed by the Regulatory Authority in the interest of the public's health.
- (d) Investigation Inspections. Investigation inspections are performed on permitted or non-permitted camps or field hand labor operations for determining compliance with these Regulations.
- (e) Other Inspections. These inspections include post-construction, pre-operational, and other inspections not included above.

#### 47-4.300 Epidemiology

When the Regulatory Authority has reasonable cause to suspect possible disease transmission by a camp or field sanitation (hand labor) operation or employee thereof, it may conduct an epidemiological investigation. This can indicate morbidity histories, suspected employees, or make any other investigations as indicated, and shall take appropriate action deemed necessary and feasible by the Deputy State Health Office or the State Epidemiologist to protect the health of the public and employees of the camp or field sanitation (hand labor) operation.

#### 47-4.400 Correction of Violations

##### (a) Critical Items

- (1) The permit holder shall initiate corrective action on all identified critical items as soon as possible, but not to exceed 72 hours following inspection. The critical items are identified on the inspection sheet and in these Regulations with an asterisk.
- (2) Follow-up inspections shall be conducted after 72 hours to assure correction.

##### (b) Non-critical Items

All other items shall be corrected by the time of the next regular inspection.

If a follow-up inspection of a camp or field sanitation (hand labor) indicates non-compliance, a conference shall be scheduled by the Supervising Sanitarian within five (5) working days after the inspection, or as soon as possible thereafter. Notification of a conference shall be made by hand-delivered letter or certified letter to the person in charge of the camp or field sanitation (hand labor). However, if it is determined that conditions warrant, an administrative hearing shall be scheduled.

A report documenting the results of the conference shall be submitted in writing to the owner/operator by the Supervising Sanitarian following the conference.

#### 47-4.401 Procedure for Administrative Action

If the Deputy State Health Officer determines that a condition(s) exists in a camp or field sanitation (hand labor) operation which represents a threat to life or a serious risk of damage to health, safety and welfare of the public, or if serious violations, repeat violations, or general insanitary conditions are found to exist, administrative action is required.

47-4.402      Imminent Health Hazards

(a)      Suspension of Permit

If some condition is determined to exist in the camp or field sanitation (hand labor) operation which presents an imminent health hazard to the public, the Deputy State Health Officer or his designee in the county in which the camp or field sanitation (hand labor) operation operates may suspend the operating permit of the camp or field sanitation (hand labor) operation without a hearing or written notice for a period not to exceed ten (10) days.

Such an imminent health hazard shall include, but is not limited to, any one of the following:

- (1)      A lack of equipment capable of maintaining the product temperature of all potentially hazardous foods as required in Section 47-2.203 of these Regulations; or
- (2)      An ongoing outbreak of an infectious, pathogenic or toxic agent capable of being transmitted; or
- (3)      The absence of potable water, supplied under pressure, in a quantity capable of meeting the needs of the facility; or
- (4)      A backup of sewage into the facility or into equipment containing food or utensils; or
- (5)      An infestation of vermin to the extent that food and food-contact surfaces cannot be protected from contamination; or
- (6)      The absence of adequate toilet facilities.

The suspension shall be effective upon receipt of written notice to the person in charge of the camp or field sanitation (hand labor) operation. A suspension statement recorded on the inspection report by the inspecting Regulatory representative and acknowledged by the signature of the person in charge constitutes a written notice. Service or written notice of suspension by the Deputy State Health Officer stating the reason(s) for suspension shall be made as soon as possible, either by certified mail or hand-delivered to the person in charge of the camp or field sanitation (hand labor) operation. The person in charge shall be requested to yield the permit to the representative of the Regulatory Authority.

(b)      Automatic Reinstatement of Permit

In the event of a suspension of a permit without a hearing, the permit shall be reinstated upon expiration of the suspension. In no

event shall the permit be suspended for a period longer than ten (10) days without a hearing.

(c) Reinstatement of Permit by Letter

If an inspection by a representative of the Division of Public Health shows the imminent health hazard(s) to no longer exist in the camp or field sanitation (hand labor), then the permit shall be reinstated by the Deputy State Health Officer or his designee in the county in which the camp or field sanitation (hand labor) operates. Service of a written notice of reinstatement shall be made as soon as possible, either by certified mail or by hand-delivery to the person in charge of the camp or field sanitation (hand labor). The permit shall be returned to the person in charge.

(d) Reinstatement of Permit by Hearing

The owner/operator of the camp or field sanitation (hand labor) may request in writing, a hearing before the Deputy State Health Officer at any time during the period of suspension for the purpose of demonstrating that the imminent health hazard(s) no longer exist(s).

The Deputy State Health Officer must schedule a hearing within the 10 day suspension period or the suspension automatically terminates at the end of the 10 day period. The Deputy State Health Officer shall issue a written notice of the hearing to the owner/operator stating the reason for the suspension, the time, date and place of the hearing. The notice shall be hand-delivered to the person in charge at the camp or field sanitation (hand labor) immediately. The camp or field sanitation (hand labor) shall remain closed pending the outcome of the hearing.

If the Deputy State Health Officer determines, after a hearing, that the condition(s) which presented an imminent health hazard no longer exist(s), the suspension of the permit of the camp or field sanitation (hand labor) shall end immediately. If, however, the Deputy State Health Officer determines that the conditions still exist, he may order that the suspension be extended indefinitely, until such time that the owner/operator of the camp or field sanitation (hand labor) demonstrates that the condition(s) that present(s) an imminent health hazard no longer exist(s).

(e) Extension of Suspension of Permit by Hearing

If the Deputy State Health Officer has reason to believe that the imminent health hazard(s) will continue to exist after the period of suspension by written notice, he may schedule a hearing to determine whether further suspension is required by notifying the owner/operator in writing. The Deputy State Health Officer may decide to request the State Board of Health to revoke the permit.

(f) Documentation of Hearings

A record of all proceedings shall be made in accordance with Section 47-4.406 of these Regulations.

47-4.403 Board of Health Action

If the suspension is extended by the Deputy State Health Officer, the owner/operator of the camp or field sanitation (hand labor) may appeal the extension of the suspension of the permit to the State Board of Health for reconsideration. However, appeal of the decision shall not stay the suspension of the permit. In order to appeal for reconsideration by the State Board of Health, a written notice of appeal must be received by the State Board of Health within ten (10) days after the decision of the Deputy State Health Officer extending the period of suspension is announced. The notice of appeal may be sent via certified mail or hand delivered to the offices of the State Board of Health, Dover, Delaware. If a notice of appeal is timely filed, the State Board of Health shall inform the owner/operator of the camp or field sanitation (hand labor), in writing, of the time, date and place of the hearing and the reason for the hearing. Delivery of such notice may be made via certified mail or hand delivered to the person in charge of the camp or field sanitation (hand labor).

47-4.404 Administrative Hearings

Whenever the compliance terms of the conference, held in accordance with Section 47-4.400 of these Regulations, have not been met or whenever conditions in a camp or field sanitation (hand labor) warrant, the Deputy State Health Officer shall schedule an administrative hearing. The purpose of the hearing shall be to consider suspension, or recommend revocation of a permit. The Deputy State Health Officer shall not suspend nor suspend nor recommend revocation of a permit of a camp or field sanitation (hand labor) for serious or repeated violations, which do not present an imminent health hazard, without having first held a hearing to determine whether the permit should be suspended or revoked.

The holder of the permit, or the person in charge of the camp or field sanitation (hand labor) must be informed at least ten (10) days prior to the hearing of the date, time, and place of the hearing and the specific charges against the camp or field sanitation (hand labor). The notification of the hearing shall be sent by certified mail, or by hand delivery.

The Deputy State Health Officer, after providing the opportunity for a hearing, may suspend for a period not to exceed thirty (30) days, or may recommend revocation of a permit to operate a camp or field

sanitation (hand labor) for serious or repeated violations of any of the requirements of these Regulations.

If, after holding a hearing, the Deputy State Health Officer renders a decision to suspend, or recommends revocation of the permit, the decision shall not be effective until ten (10) days after the decision is announced in writing to the defendant. A recommendation to revoke a permit must be forwarded to the State Board of Health in writing.

47-4.405 Right of Appeal to the Board of Health

The owner/operator of the camp or field sanitation (hand labor) may appeal to the State Board of Health for reconsideration of the decision of the Deputy State Health Officer. In order to appeal for reconsideration, written notice of appeal must be received by the State Board of Health within ten (10) days after the decision of the Deputy State Health Officer is announced. The notice of appeal may be sent via certified mail or hand delivered to the State Board of Health, Dover, Delaware. If a notice of appeal is timely filed, the decision of the Deputy State Health Officer in regard to suspension or revocation of the permit of a camp or field sanitation (hand labor) for critical or repeat violations, will be stayed until that decision is confirmed by the State Board of Health. If the notice of appeal is timely filed, the State Board of Health shall hold a hearing within thirty (30) days of the filing of the notice of appeal with the State Board.

47-4.406 Records of Administrative Proceedings

The hearings provided for in these Regulations shall be conducted by the regulatory authority at a time and place designated by it. Written minutes shall be made of all hearing proceedings and shall become documents of record. A written report of the hearing decision shall be furnished to the holder of the permit by the Deputy State Health Officer within ten (10) days following the hearing.

47-4.407 Refusing to Apply for A Permit

If the owner/operator of a camp or field sanitation (hand labor) operation refuses to apply for a permit or the establishment does not comply with the requirements of these Regulations, then the Supervising Sanitarian shall refer the case, to the Deputy State Health Officer.

47-4.408 Variance

The Board of Health may from time to time grant written permission to individual employers or providers of migratory agricultural housing or field sanitation (hand labor) operations to vary from

particular provisions set forth in this Part when the extent of the variation is clearly specified and it is demonstrated to their satisfaction that:

- (a) Such variation is necessary to obtain a beneficial use of an existing facility;
- (b) The variation is necessary to prevent a practical difficulty or unnecessary hardship; and
- (c) Appropriate alternative measures have been taken to protect the health and safety of the migrants and assure that the purposes of the provisions from which the variation is sought will be observed.

Written applications for such variations shall be filed with the Director, Division of Public Health. No such variation shall be effective until granted by the State Board of Health.

47-4.409

#### Remedies

##### (a) Penalties

Any such person (or responsible officer of that person) who violates a provision of this Regulation, and any person (or responsible officer of that person) who is the holder of a permit or who otherwise operates a camp or field sanitation (hand labor) operation that does not comply with the requirements of these Regulations shall be subject to the provisions of 16 Del. C. §107.





APPENDIX A  
Notifiable Disease

		48. Typhoid Fever
		49. Vaccine Adverse Reactions
1.	Acquired Immune Deficiency Syndrome (T)	50. Waterborne Disease Outbreaks (T)
2.	Amebiasis	51. Yellow Fever (T)
3.	Anthrax (T)	
4.	Botulism (T)	
5.	Brucellosis	
6.	Campylobacteriosis	
7.	Chancroid	
8.	Cholera (T)	
9.	Diphtheria (T)	
10.	Encephalitis	
11.	Foodborne Disease Outbreaks (T)	
12.	Giardiasis	
13.	Gonococcal Infections	
14.	Granuloma Inguinale	
15.	Hansen's Disease (Leprosy)	
16.	Hepatitis (viral-all types)	
17.	Histoplasmosis	
18.	Influenza	
19.	Lead Poisoning	
20.	Legionnaires Disease	
21.	Leptospirosis	
22.	Lymphogranuloma Venereum	
23.	Malaria	
24.	Measles (T)	
25.	Meningitis (bacterial)	
26.	Meningitis (aseptic)	
27.	Meningococcal Disease (other)	
28.	Mumps	
29.	Pertussis	
30.	Plague (T)	
31.	Poliomyelitis (T)	
32.	Psittacosis	
33.	Rabies (man, animal) (T)	
34.	Reye's Syndrome	
35.	Rocky Mountain Spotted Fever	
36.	Rubella	
37.	Rubella, Congenital Syndrome	
38.	Salmonellosis	
39.	Shigellosis	
40.	Smallpox (T)	
41.	Syphilis	
42.	Tetanus	
43.	Toxic Shock Syndrome (T)'s Notified by telephone call	
44.	Trichinosis	
45.	Tuberculosis	
46.	Tularemia	
47.	Typhoid Fever (T)	